

BIA
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therapeutic protein, said human cells expressing *in vivo* in said human a therapeutically effective amount of said therapeutic protein, wherein said DNA segment has been inserted into said human cells by means other than transduction by a viral vector.--

REMARKS

Applicant has canceled claims 1-35 without prejudice or disclaimer and added new claim 36. Claim 36 is supported by the specification and the originally filed claims at, e.g., page 37, line 20, to page 38, line 19.

The Examiner rejected claims 1-35 on various grounds. Each of the grounds of rejection has been obviated by cancellation of the rejected claims.

New claim 36 is similar to claim 36 of application Serial No. 08/465,582, which is currently in interference. Claim 36 recites "an implant comprising transfected human cells" instead of "a process for providing a human with a therapeutic protein," and it recites that the "DNA segment has been inserted into said human cells by means other than transduction by a viral vector."

Claim 36 of application Serial No. 08/465,582 has been indicated as being allowable as evidenced by its involvement in the interference. Applicant believes that newly added claim 36 in the instant application is also allowable. Nevertheless, Applicant wishes to apprise the Examiner that the Junior Party in the interference has challenged the patentability of claim 36 in application Serial No. 08/465,582 for allegedly failing to comply with 35 U.S.C. § 112, first paragraph. Applicant is evaluating

LAW OFFICES

FINNEGAN, HENDERSON,
FARABOW, GARRETT
& DUNNER, L.L.P.
1300 I STREET, N.W.
WASHINGTON, DC 20005
202-408-4000

the Junior Party's contention to determine whether it affects newly added claim 36 in the subject application. Applicant will take the action it may deem appropriate after this evaluation is complete.

If there are any fees due in connection with the filing of this response, please charge the fees to our Deposit Account No. 60-0916. If a fee is required for an extension of time under 37 C.F.R. § 1.136 not accounted for above, such an extension is requested, and the fee should also be charged to our Deposit Account.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

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By: 
Michael T. Siekman
Reg. No. 36,276